

Comparative Constitutionalism Cases And Materials

The field of comparative constitutional law has grown immensely over the past couple of decades. Once a minor and obscure adjunct to the field of domestic constitutional law, comparative constitutional law has now moved front and centre. Driven by the global spread of democratic government and the expansion of international human rights law, the prominence and visibility of the field, among judges, politicians, and scholars has grown exponentially. Even in the United States, where domestic constitutional exclusivism has traditionally held a firm grip, use of comparative constitutional materials has become the subject of a lively and much publicized controversy among various justices of the U.S. Supreme Court. The trend towards harmonization and international borrowing has been controversial. Whereas it seems fair to assume that there ought to be great convergence among industrialized democracies over the uses and functions of commercial contracts, that seems far from the case in constitutional law. Can a parliamentary democracy be compared to a presidential one? A federal republic to a unitary one? Moreover, what about differences in ideology or national identity? Can constitutional rights deployed in a libertarian context be profitably compared to those at work in a social welfare context? Is it perilous to compare minority rights in a multi-ethnic state to those in its ethnically homogeneous counterparts? These

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controversies form the background to the field of comparative constitutional law, challenging not only legal scholars, but also those in other fields, such as philosophy and political theory. Providing the first single-volume, comprehensive reference resource, the 'Oxford Handbook of Comparative Constitutional Law' will be an essential road map to the field for all those working within it, or encountering it for the first time. Leading experts in the field examine the history and methodology of the discipline, the central concepts of constitutional law, constitutional processes, and institutions - from legislative reform to judicial interpretation, rights, and emerging trends.

Through an extensive exploration of comparative constitutional endeavours past and present, near and far, Ran Hirschl shows how attitudes towards engagement with the constitutive laws of others reflect tensions between particularism and universalism as well as competing visions of who 'we' are as a political community. Drawing on insights from social theory, religion, history, political science, and public law, Hirschl argues for an interdisciplinary approach to comparative constitutionalism that is methodologically and substantively preferable to merely doctrinal accounts. The future of comparative constitutional studies, he contends, lies in relaxing the sharp divide between constitutional law and the social sciences.

This book offers a multi-discursive analysis of the constitutional foundations for peaceful coexistence, the constitutional background for discontent and the impact of discontent, and the consequences of conflict and

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revolution on the constitutional order of a democratic society which may lead to its implosion. It explores the capacity of the constitutional order to serve as a reliable framework for peaceful co-existence while allowing for reasonable and legitimate discontent. It outlines the main factors contributing to rising pressure on constitutional order which may produce an implosion of constitutionalism and constitutional democracy as we have come to know it. The collection presents a wide range of views on the ongoing implosion of the liberal-democratic constitutional consensus which predetermined the constitutional axiology, the institutional design, the constitutional mythology and the functioning of the constitutional orders since the last decades of the 20th century. The constitutional perspective is supplemented with perspectives from financial, EU, labour and social security law, administrative law, migration and religious law. Liberal viewpoints encounter radical democratic and critical legal viewpoints. The work thus allows for a plurality of viewpoints, theoretical preferences and thematic discourses offering a pluralist scientific account of the key challenges to peaceful coexistence within the current constitutional framework. The book provides a valuable resource for academics, researchers and policymakers working in the areas of constitutional law and politics. Many jurisdictions in Asia have vested their courts with the power of constitutional review. Traditionally, these courts would invalidate an impugned law to the extent of its inconsistency with the constitution. In common law systems, such an invalidation operates immediately and

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retrospectively; and courts in both common law and civil law systems would leave it to the legislature to introduce corrective legislation. In practice, however, both common law and civil law courts in Asia have devised novel constitutional remedies, often in the absence of explicit constitutional or statutory authorisation. Examining cases from Hong Kong, Bangladesh, Indonesia, India, and the Philippines, this collection of essays examines four novel constitutional remedies which have been judicially adopted - Prospective Invalidation, Suspension Order, Remedial Interpretation, and Judicial Directive - that blurs the distinction between adjudication and legislation. Discusses the history of the ongoing conflict between Israel and Palestine, the involvement of the United States in the peace process, and the changing face of terrorism in the twenty-first century.

Once a mere appendage to constitutional law proper, research in comparative constitutional law has burgeoned in recent decades. Indeed, a growing tendency towards international borrowing and harmonization has been marked in many jurisdictions (even, tentatively, the United States), but it has not been uncontroversial, or uncontested. Now, this new collection from Routledge's Critical Concepts in Law series meets the need for an authoritative reference work to help researchers and students navigate and make better sense of an abundance of scholarship in comparative constitutional law. The collection is made up of four volumes which bring together the best and most influential canonical and cutting-edge thinking. Topics include constitution-making and amendment; the

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different structural components of constitutional governance (such as the relationship of legislatures to courts and the effects of different methods of judicial oversight); the interaction of constitutional law with transnational sources of law; and theoretical and practical aspects of constitutional legitimacy. With a full index, and thoughtful introductions, newly written by the learned editor, *Comparative Constitutional Law* traces the field's development and highlights the challenges for future explorations. The collection will be valued by legal scholars--as well as by political philosophers and theorists--as a vital and enduring resource.

This law school casebook examines how the vast increase in international movements of people, capital, goods, ideas and information affect politics in and beyond nation-states, the rule of law and separation of powers, and fundamental rights. It contains case excerpts from at least 40 countries in all continents, examining the assumptions, choices and trade-offs, strategies and effects of decisions from constitutional courts and human rights tribunals in different legal systems and political contexts. It discusses different theories of constitutionalism and how constitutional democracies address similar issues, in different institutional settings. The second edition newly covers the controversy concerning citations to foreign authorities in U.S. Supreme Court decisions, as well as cases arising out of the "war on terrorism," including torture. In particular, there is new material on dignity, gay marriage, data protection, pornography, religious diversity, and developments in social welfare.

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This Oxford Handbook ambitiously seeks to lay the groundwork for the relatively new field of comparative foreign relations law. Comparative foreign relations law compares and contrasts how nations, and also supranational entities (for example, the European Union), structure their decisions about matters such as entering into and exiting from international agreements, engaging with international institutions, and using military force, as well as how they incorporate treaties and customary international law into their domestic legal systems. The legal materials that make up a nation's foreign relations law can include constitutional law, statutory law, administrative law, and judicial precedent, among other areas. This book consists of 46 chapters, written by leading authors from around the world. Some of the chapters are empirically focused, others are theoretical, and still others contain in-depth case studies. In addition to being an invaluable resource for scholars working in this area, the book should be of interest to a wide range of lawyers, judges, and law students. Foreign relations law issues are addressed regularly by lawyers working in foreign ministries, and globalization has meant that domestic judges, too, are increasingly confronted by them. In addition, private lawyers who work on matters that extend beyond their home countries often are required to navigate issues of foreign relations law. An increasing number of law school courses in comparative foreign relations law are also now being developed, making this volume an important resource for students as well. Comparative foreign relations law is a newly emerging field of study and teaching, and this

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volume is likely to become a key reference work as the field continues to develop.

Constitutions are often seen as the product of the free will of a people exercising their constituent power. This, however, is not always the case, particularly when it comes to 'imposed constitutions'. In recent years there has been renewed interest in the idea of imposition in constitutional design, but the literature does not yet provide a comprehensive resource to understand the meanings, causes and consequences of an imposed constitution. This volume examines the theoretical and practical questions emerging from what scholars have described as an imposed constitution. A diverse group of contributors interrogates the theory, forms and applications of imposed constitutions with the aim of refining our understanding of this variation on constitution-making.

Divided into three parts, this book first considers the conceptualization of imposed constitutions, suggesting definitions, or corrections to the definition, of what exactly an imposed constitution is. The contributors then go on to explore the various ways in which constitutions are, and can be, imposed. The collection concludes by considering imposed constitutions that are currently in place in a number of polities worldwide, problematizing the consequences their imposition has caused. Cases are drawn from a broad range of countries with examples at both the national and supranational level. This book addresses some of the most important issues discussed in contemporary constitutional law: the relationship between constituent and constituted power, the source of constitutional legitimacy, the challenge of foreign and expert intervention and the role of comparative constitutional studies in constitution-making. The volume will be a valuable resource for those interested in the phenomenon of imposed constitutionalism as well as anyone

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interested in the current trends in the study of comparative constitutional law.

This book focuses on Islamic constitutionalism, and in particular on the relation between religion and the protection of individual liberties potentially clashing with sharica and the Islamic ethos. The analysis goes from general to particular, starting with a theoretical overview on constitutionalism, human rights and Islam, moving to the assessment of the post-Arab Spring Constitutions of Egypt and Tunisia, and concluding with a specific focus on the rights of sexual minorities and freethinkers. Part I provides a theoretical account of the conception of constitutionalism and human rights in Islam, compared and contrasted with Western constitutionalism. A set of issues where the tension between sharica and human rights is accentuated is analysed against the backdrop of the main Islamic charters of rights. Part II conducts a similar assessment based on the Constitutions of Tunisia and Egypt – the two main epicentres of the Arab Spring. Part III moves to two specific rights in the same countries, from the twofold perspective of the Constitutions and international law: the freedom from interference in one's intimate life, with particular regard to homosexuality; and the freedom of holding and expressing nonconventional beliefs, deemed unacceptable from the point of view of traditional Islam. These issues have been chosen as representative of the most controversial, still considered taboo in both legal and social terms, hence at the fringes of the debate on individual freedoms. Focusing on two overlooked and underexplored issues, the work thus pushes the boundaries of the human rights discourse in Muslim contexts.

This handbook provides a toolbox of definitions and typologies to develop a theory of multilevel constitutionalism and subnational constitutions. The volume examines systems with subnational entities that have full subnational constituent

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autonomy and systems where subnational constituent powers, while claimed by subnational governments, are incomplete or non-existent. Understanding why complete subnational constituent power exists or is denied sheds significant light on the status and functioning of subnational constitutions. The book deals with questions of how constitutions at multiple levels of a political system can co-exist and interact. The term 'multilevel constitutionalism', recognized as explaining how a supranational European constitution can exist alongside those of the Member States, is now used to capture dynamics between constitutions at the national, subnational and, where applicable, supranational levels. Broad in scope, the book encompasses many different types of multi-tiered systems world-wide to map the possible meanings, uses and challenges of subnational or state constitutions in a variety of political and societal contexts. The book develops the building blocks of an explanatory theory of subnational constitutionalism and as such will be an essential reference for all those interested in comparative constitutional law, federalism and governance.

This volume explores the form and function of constitutions in countries without the fully articulated institutions of limited government.

Constitutions are supposed to provide an enduring structure for politics. Yet only half live more than nine years. Why is it that some constitutions endure while others do not? In *The Endurance of National Constitutions* Zachary Elkins, Tom Ginsburg and James Melton examine the causes of constitutional endurance from an institutional perspective. Supported by an original set of cross-national historical data, theirs is the first comprehensive study of constitutional mortality. They show that whereas constitutions are imperilled by social and political crises, certain aspects of a constitution's design can lower the risk of death substantially.

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Thus, to the extent that endurance is desirable - a question that the authors also subject to scrutiny - the decisions of founders take on added importance.

The book delves into the 'deeper structures' of the world's legal systems, where law meets culture, politics and socio-economic factors.

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Offering insights into the origins, successes, and threats to revolutionary constitutionalism, Bruce Ackerman takes us to India, South Africa, Italy, France, Poland, Burma, Israel, Iran, and the U.S. and provides a blow-by-blow account of the tribulations that confronted popular movements in their insurgent campaigns for constitutional democracy.

Mark Tushnet excels in updating the *Advanced Introduction to Comparative Constitutional Law*. In this second edition Tushnet includes new material based on developments in practice and scholarship since the original edition's publication back in 2014. Topics which are given substantial additional attention include abusive constitutionalism, the idea of the constituent power, eternity clauses and unconstitutional amendments, recent developments in weak- and strong-form constitutional review, and expanded consideration of third generation rights. This title will appeal to those who fell in love with the first edition and those who are interested in learning more about Comparative Constitutional Law.

The last fifty years has seen a worldwide trend toward constitutional democracy. But can constitutionalism become truly global? Relying on historical examples of successfully implanted constitutional regimes, ranging from the older experiences in the United States and France to the relatively recent ones in Germany, Spain and South Africa, Michel Rosenfeld sheds light on the range of conditions necessary for the emergence, continuity and adaptability of a viable

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constitutional identity - citizenship, nationalism, multiculturalism, and human rights being important elements. The Identity of the Constitutional Subject is the first systematic analysis of the concept, drawing on philosophy, psychoanalysis, political theory and law from a comparative perspective to explore the relationship between the ideal of constitutionalism and the need to construct a common constitutional identity that is distinct from national, cultural, ethnic or religious identity. The Identity of the Constitutional Subject will be of interest to students and scholars in law, legal and political philosophy, political science, multicultural studies, international relations and US politics.

This comparative constitutional law casebook offers a comprehensive and paradigmatic approach to the subject: it examines how the vast increase in international movements of people, capital, goods, ideas, and information affect politics in and beyond nation-states and how this influx affects the rule of law, separation of powers, and fundamental rights. Indeed, this casebook stands apart as it represents an international collaboration of legal scholars and allows for diversity of perspectives. Utilizing case excerpts from at least 40 countries across every continent, students will examine the assumptions, choices and trade-offs, strategies, and effects from decisions by constitutional courts and human rights tribunals throughout various legal systems and political contexts. Moreover, this book examines the different theories of constitutionalism and analyzes how constitutional democracies address similar issues in different institutional settings. This third edition includes new material that speaks to current issues of pressing importance: citizenship, transnational constitutionalism, authoritarian and illiberal constitutions, collective rights and minorities, Internet censorship, religion in the public space, mass surveillance, and targeted killings. Both teachers and students will

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appreciate the complete coverage of complex topics within a manageable size and format. A comprehensive teacher's manual accompanies the casebook.

Comparing constitutions allows us to consider the similarities and differences in forms of government as well as the normative philosophies behind constitutional choices. The objective behind this Companion is to present the reader with a succinct yet wide-ranging companion to a modern comparative constitutional law course.

With an Introduction by Justice Alito, this Comparative Constitutional Law casebook stands apart from other casebooks. It focuses on the 15 constitutional democracies in the G-20 Nations: 1) the United States, 2) the United Kingdom, 3) France, 4) Germany, 5) Japan, 6) Italy, 7) India, 8) Canada, 9) Australia, 10) Brazil, 11) South Korea, 12) South Africa, 13) Indonesia, 14) Mexico, and 15) the European Union. The G-20 Nations together comprise 85% of the world's GDP and two-thirds of the world's population. Thus, this casebook maintains a better sense of relevance than similar books, which often focus heavily on esoteric jurisdictions. It is also less Euro-centric than competing books; most chapters include cases from Brazil, Mexico, and India. Substantively, this casebook compares the constitutional law of the selected countries with respect to fourteen topics: 1) constitutionalism - constitutional history, constitution-making, amendment, and secession rules; 2) the emergence and nature of judicial review; 3) the separation of powers, bicameralism, and comparative administrative law; 4) federalism; 5) bills of rights, birthright freedom and equality, and human dignity; 6) equal protection of the laws; 7) freedom of expression; 8) freedom of religion; 9) civil, criminal, and appellate procedure; 10) protection of economic liberties; 11) positive social entitlements and state action; and, finally, 12) constitutional guarantees of democracy. It

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concludes with ideas that are of particular relevance to U.S. constitutional law. Pedagogically, this casebook contains more cases and fewer law review articles than competing books, making it teacher-friendly. It can be taught in a three-day weekly format, in a two-day weekly format, or in a once-a-week seminar format. It is accompanied by a comprehensive teacher's manual and suggested syllabi.

Since 2015, Poland's populist Law and Justice Party (PiS) has been dismantling the major checks and balances of the Polish state and subordinating the courts, the civil service, and the media to the will of the executive. Political rights have been radically restricted, and the Party has captured the entire state apparatus. The speed and depth of these antidemocratic movements took many observers by surprise: until now, Poland was widely regarded as an example of a successful transitional democracy. Poland's anti-constitutional breakdown poses three questions that this book sets out to answer: What, exactly, has happened since 2015? Why did it happen? And what are the prospects for a return to liberal democracy? These answers are formulated against a backdrop of current worldwide trends towards populism, authoritarianism, and what is sometimes called 'illiberal democracy'. As this book argues, the Polish variant of 'illiberal democracy' is an oxymoron. By undermining the separation of powers, the PiS concentrates all power in its own hands, rendering any democratic accountability illusory. There is, however, no inevitability in these anti-democratic trends: this book considers a number of possible remedies and sources of hope, including intervention by the European Union.

"More than half the world's population lives in cities; by 2050, it will be more than 75%. Cities are often the economic, cultural, and political drivers of states, and of globalization more generally. Yet, constitutionally-speaking, there has been little to no consideration of cities (and especially megacities,

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with populations exceeding those of many of the world's countries) as discrete or distinct constitutional or federal entities, with political identities and economic needs that often differ from rural regions or so-called "hinterlands." This book intends to taxonomize the constitutional relationship between states and (mega)cities and theorize a way forward for considering the role of the city in future. In six chapters and a conclusion, the book considers the reason for this "constitutional blind spot," the relationship between cities and hinterlands (the center/periphery divide), constitutional mechanisms for dealing with regional differences, a comparative constitutional analysis of urban-center autonomy, and recent and future innovations in city governance"--

South Asian countries in spite of having diverse histories and politics share a uniformity in terms of constitutionalism. This pioneering volume maps out the intellectual and historical contours of this little-studied field, yet one that is critical to South Asia's future. The essays collected here examine whether the experience so far of comparative law across South Asia offers insight into broader trends in constitutionalism, and also ask how the corpus of general comparative constitutional law might benefit from greater familiarity with the South Asian experience.

American Constitutional Law: Essays, Cases, and Comparative Notes is a unique casebook that encourages citizens and students of the Constitution to think critically about the fundamental principles and policies of the American constitutional order. In addition to its distinguished authorship, the book has two prominent features that set it apart from other books in the field: an emphasis on the social, political, and moral theory that provides meaning to constitutional law and interpretation, and a comparative perspective that situates the American experience within a world context that

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serves as an invaluable prism through which to illuminate the special features of our own constitutional order. While the focus of the book is entirely on American constitutional law, the book asks students to consider what, if anything, is unique in American constitutional life and what we share with other constitutional democracies. Each chapter is preceded by an introductory essay that highlights these major themes and also situates the cases in their proper historical and political contexts. This new edition offers updated and expanded treatment of a number of important and timely topics including, the death penalty, privacy, affirmative action, and school segregation. Volume 2 of this text focuses on civil rights and basic freedoms and includes separate chapters on race and gender.

This book of text, cases and materials from Asia is designed for scholars and students of constitutional law and comparative constitutional law. The book is divided into 11 chapters, arranged thematically around key ideas and controversies, enabling the reader to work through the major facets of constitutionalism in the region. The book begins with a lengthy introduction that critically examines the study of constitutional orders in 'Asia', highlighting the histories, colonial influences, and cultural particularities extant in the region. This chapter serves both as a provisional orientation towards the major constitutional developments seen in Asia – both unique and shared with other regions – and as a guide to the controversies encountered in the study of constitutional law in Asia. Each of the following chapters is framed by an introductory essay setting out the issues and succinctly highlighting critical perspectives and themes. The approach is one of 'challenge and response', whereby questions of constitutional importance are posed and the reader is then led, by engaging with primary and secondary materials, through the way the various Asian states respond to these

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questions and challenges. Chapter segments are accompanied by notes, comments and questions to facilitate critical and comparative analysis, as well as recommendations for further reading. The book presents a representative range of Asian materials from jurisdictions including: Bangladesh, China, Hong Kong, India, Japan, Mongolia, Nepal, Pakistan, South Korea, Sri Lanka, Taiwan, Timor-Leste and the 10 ASEAN states.

In the past few years, constitutional courts have been presented with new challenges. The world financial crisis, the new wave of terrorism, mass migration and other country-specific problems have had wide-ranging effects on the old and embedded constitutional standards and judicial constructions. This book examines how, if at all, these unprecedented social, economic and political problems have affected constitutional review in Europe. As the courts' response must conform with EU law and in some cases international law, analysis extends to the related jurisprudence of the European Court of Justice and the European Court of Human Rights. The collection adopts a common analytical structure to examine how the relevant challenges have been addressed in ten country specific case studies. Alongside these, constitutional experts frame the research within the theoretical understanding of the constitutional difficulties of the day in Europe. Finally, a comparative chapter examines the effects of multilevel constitutionalism and identifies general European trends. This book will be essential reading for academics and researchers working in the areas of constitutional law, comparative law and jurisprudence.

In *Constitutional Identity*, Gary Jeffrey Jacobsohn argues that a constitution acquires an identity through experience—from a mix of the political aspirations and commitments that express a nation's past and the desire to transcend that past. It is

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changeable but resistant to its own destruction, and manifests itself in various ways, as Jacobsohn shows in examples as far flung as India, Ireland, Israel, and the United States.

Jacobsohn argues that the presence of disharmony—both the tensions within a constitutional order and those that exist between a constitutional document and the society it seeks to regulate—is critical to understanding the theory and dynamics of constitutional identity. He explores constitutional identity's great practical importance for some of constitutionalism's most vexing questions: Is an unconstitutional constitution possible? Is the judicial practice of using foreign sources to resolve domestic legal disputes a threat to vital constitutional interests? How are the competing demands of transformation and preservation in constitutional evolution to be balanced? *Constitutionalism beyond Liberalism* bridges the gap between comparative constitutional law and constitutional theory. The volume uses the constitutional experience of countries in the global South - China, India, South Africa, Pakistan, Indonesia, and Malaysia - to transcend the liberal conceptions of constitutionalism that currently dominate contemporary comparative constitutional discourse. The alternative conceptions examined include political constitutionalism, societal constitutionalism, state-based (Rousseau-ian) conceptions of constitutionalism, and geopolitical conceptions of constitutionalism. Through these examinations, the volume seeks to expand our appreciation of the human possibilities of constitutionalism, exploring constitutionalism not merely as a restriction on the powers of government, but also as a creating collective political and social possibilities in diverse geographical and historical settings.

Comparative constitutional change has recently emerged as a distinct field in the study of constitutional law. It is the study of the way constitutions change through formal and informal mechanisms, including amendment, replacement, total and

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partial revision, adaptation, interpretation, disuse and revolution. The shift of focus from constitution-making to constitutional change makes sense, since amendment power is the means used to refurbish constitutions in established democracies, enhance their adaptation capacity and boost their efficacy. Adversely, constitutional change is also the basic apparatus used to orchestrate constitutional backslide as the erosion of liberal democracies and democratic regression is increasingly affected through legal channels of constitutional change. Routledge Handbook of Comparative Constitutional Change provides a comprehensive reference tool for all those working in the field and a thorough landscape of all theoretical and practical aspects of the topic. Coherence from this aspect does not suggest a common view, as the chapters address different topics, but reinforces the establishment of comparative constitutional change as a distinct field. The book brings together the most respected scholars working in the field, and presents a genuine contribution to comparative constitutional studies, comparative public law, political science and constitutional history.

Reformulating a problem of both constitutionalism and liberalism discussed in the works of Ernst-Wolfgang Böckenförde, Hannah Arendt, and Alexis de Tocqueville, the book examines one generally overlooked manifestation of constitutionalism: the role of the courts in shaping democratic politics and the inter-relationship between citizens and state. Drawing on constitutional history, law, and political theory, David Miles argues that constitutionalism cannot be seen merely as an institutional mechanism to limit government, as it also has a crucial civic dimension upon which the liberal state depends. Utilising the works of Böckenförde, Arendt, and Tocqueville, constitutionalism is conceived in the book as part of a broader system of communal norms which sustains

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representative democracy and liberalism. Through an analysis of judicial interventions in the electoral processes of the United States and Germany, Miles explores the role of civil society actors in transforming constitutionalism through legal challenges to oligarchical or exclusionary practices. He assesses how, in adjudicating these cases, the US Supreme Court and the German Constitutional Court have mediated the tension between threats to stability and the imperative of democratic renewal. *Democracy, the Courts, and the Liberal State* will be of interest to scholars, students, and practitioners interested in comparative politics, political theory, and constitutional law and history.

The central role that good, effective and capable governance plays in the economic and social development of a country is now widely recognised. Using the Commonwealth countries of eastern and southern Africa, this book analyses some of the key constitutional issues in the process of developing, strengthening and consolidating the capacity of states to ensure the good governance of their peoples. Utilising comparative material, the book seeks to draw lessons, both positive and negative, about the problems of constitutionalism in the region and, in doing so, critically addresses the legal issues involved in seeking to make constitutions 'work' in practice.

Harvard Law Professor Cass Sunstein has said that South Africa has "the most admirable constitution in the history of the world." This comparative constitutional law casebook is unique because it allows students and experts in U.S. constitutional law (or other nations) to compare their approach with modern South African constitutionalism. The transformative and progressive South African

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Constitution adopts the most successful parts of existing parliamentary constitutions, while honoring the nation's African heritage. Further, it incorporates numerous international human rights such as socio-economic and environmental rights. The book's South African focus guarantees readers will grasp the contingency and social context of a foreign constitutional court's decisions, rather than primarily surveying cases from numerous other nations. Yet the introductory chapter also provides background on South Africa, and then exposes readers to key theoretical questions about comparativism. Moreover, that chapter briefly describes seven other constitutional democracies where the courts play important but different roles than in South Africa. These nations provide further context for the strong judicial review exercised by the South African Constitutional Court. Indeed, excerpts from that Court's decisions make up most of the core second chapter. The core chapter also contains questions about the reasoning of each South African case, as well as how that case compares to a single foreign case on the same topic. The book is suitable for law students, as well as other graduate and undergraduate students. In addition, the book is the first condensed version of South African constitutional case law published in the U.S. Thus, it functions as a research collection for experts, as well as a casebook.

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This landmark volume of specially commissioned, original contributions by top international scholars organizes the issues and controversies of the rich and rapidly maturing field of comparative constitutional law. Divided into sections on constitutional design and redesign, identity, structure, individual rights and state duties, courts and constitutional interpretation, this comprehensive volume covers over 100 countries as well as a range of approaches to the boundaries of constitutional law. While some chapters reference the text of legal instruments expressly labeled constitutional, others focus on the idea of entrenchment or take a more functional approach. Challenging the current boundaries of the field, the contributors offer diverse perspectives - cultural, historical and institutional - as well as suggestions for future research. A unique and enlightening volume, *Comparative Constitutional Law* is an essential resource for students and scholars of the subject.

Examination of the effects of law's de-nationalisation by placing European law in the context of transnational law.

This book provides in English the case law of the Colombian Constitutional Court, which has become one of the most creative and important courts of the global south and the world since its creation in 1991. It offers concise and carefully chosen extracts of the Court's most important cases, along with notes and

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introductory materials to place them in historical and comparative context. The book covers the Court's landmark rights jurisprudence, including the decriminalization of drug possession, the legalization of same-sex marriage, the protection of social rights through broad structural orders such as the ones covering internally displaced persons and the right to health. It also covers the protection of the rights of indigenous peoples to cultural autonomy and to be consulted before economic projects are undertaken on their land, and the rights of victims of the country's long-running internal armed conflict to truth, justice, and reparations. Also provided are the Court's most noteworthy structural cases, particularly its successful attempt to limit the use of states of exception and its substitution of the constitution doctrine, which allows it to strike down amendments that replace rather than amending core principles of the existing constitutional order. The materials focus on the Court's contributions in a comparative perspective, showing how they are exemplary of a range of problems faced by courts around the world and particularly as an example of aggressive judicial review by the courts of the global south. At the same time, they demonstrate how many of the Court's key cases - such as the judicial review of the peace process with guerrilla groups or the striking down of an amendment to allow a popular president to seek a third term - are reactions to the historical features

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of the Colombian legal and social landscape. The third edition updates its predecessor by including material on important recent developments. In addition to general updating on matters such as gender equality, federalism and affirmative action it expands the treatment of dialogic forms of judicial review. The treatment of constitution-making has been expanded to include discussions of popular participation and of the possibility that constitutional amendments might be held unconstitutional. The book continues to have a substantial discussion of the treatment of emergencies in the world's constitutional systems. The authors also reorganized, updated and expanded: * The chapters on courts and constitutionalism. * Materials on social and economic rights in the last chapter. * The discussion of freedom of expression.

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